

Secretary or an assistant secretary. (See also Rules 2.08.(a) and 1.04.(b).)

- (b) Any party to a proceeding may, at any time prior to thirty (30) days before the date set for the hearing in such proceeding, serve on any other party thereto a request for information or documents. The party on whom such request is served shall furnish or make available for inspection such information or documents to the party submitting the request within fifteen (15) days after service of the request or within fifteen (15) days following the Commission's ruling upon any objection made pursuant to Rule 3.05.(c), whichever is later. Any request shall state clearly the information and documents desired and the material and relevant facts to be proved by the same. Requests for information and objections thereto shall be filed with the Commission. Information and documents furnished in response to a request for information need not be filed with the Commission unless otherwise directed.
- (c) The party on whom such subpoena or request is served may object to such request by filing and serving such objections on the party submitting the request within ten (10) days after service of request. Any objections to a subpoena or request shall state with particularity the reasons for such objection.
- (d) Nothing herein shall prohibit information requests and voluntary compliance therewith, and parties are expected to make maximum use of informal requests for information before resorting to subpoena or formal request as provided in this Rule.
- (e) Any party upon whom requests for information or documents has been served may, within ten (10) days of service of the request, petition for an extension of time to respond to such request. Upon a showing of good cause, the Commission may allow such additional time as is necessary to properly respond.

Rule 3.06. Presiding Officer

The Commission Chairman, any member of the Commission, or any Examiner designated by the Commission may preside at Commission hearings. The presiding officer shall control the course of the hearing; administer oaths; receive evidence; rule upon all objections and motions; receive offers of proof; hear arguments;

and fix the time for filing of briefs, if desired. He may also take such other action as may be necessary and appropriate to the discharge of his duties consistent with the Commission's statutory jurisdictional authority and the rules, regulations and policies of the Commission.

Rule 3.07. Evidence

The Commission will not itself, nor will it require others in presenting testimony, to be governed by or conform to the strict rules of evidence applicable to proceedings at law or in equity.

- (a) The Commission may issue orders with respect to trade secrets or other proprietary information. Information asserted to be trade secrets or other proprietary information shall be submitted to the Commission before delivery to another party. (See also Rule 13.05.)
- (b) The Commission or hearing examiner may take official notice of any information or document previously filed with the Commission, or of any fact or circumstance that may be officially noticed in an administrative proceeding. (See also Rule 3.12.)

Rule 3.08. Witnesses and Depositions

- (a) Except as otherwise provided herein, witnesses will be examined orally and under oath, unless the facts are stipulated or the presiding officer otherwise orders.
- (b) The testimony of a witness may be taken by deposition at the instance of any party in any proceeding pending before the Commission, or at the instance of the Commission. All depositions including those taken for the purpose of discovery shall be taken and filed with the same formalities and notice as are required in instances where depositions are taken for use in courts of law or equity, unless taken by consent. Parties choosing to invoke the provisions of this section are expected to do so in a timely manner so as not to violate the filing deadlines established herein.

Rule 3.09. Prepared Testimony

With the approval of the presiding officer, a witness may read into the record his testimony on direct examination. Before any prepared testimony is read, unless excused by the presiding

officer, copies thereof shall be furnished by the party offering the testimony to the presiding officer, staff counsel, and counsel for all parties. Admissibility shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving in time will result without prejudice to any party, prepared testimony may be copied into the record without having the witness read it aloud. In the event any party intends to request the admission of any prepared testimony at a hearing without being read, copies thereof shall be served on the Commission, the Staff and every other party not less than thirty (30) calendar days prior to the date of the hearing in a contested proceeding and not less than fourteen (14) calendar days prior to the date of the hearing in an uncontested proceeding. For purposes of rate applications testimony shall be filed in accordance with Section 9. of these Rules.

Rule 3.10. Stipulations

All parties to any proceeding or investigation before the Commission may, by written stipulation filed with the Commission or entered in the record, agree upon the facts or any portion thereof involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practicable. The Commission may, in such cases, require or introduce such additional evidence as it may deem necessary.

Rule 3.11. Additional Evidence

At the hearing, the presiding officer may require the production of further evidence upon any issue. Upon agreement of the parties, he may authorize the filing of specific documentary evidence as a part of the record within a fixed time after the hearing, reserving exhibit numbers therefor.

Rule 3.12. Commission's Staff Evidence

The Commission Staff may, through its own experts or employees, or otherwise, secure and introduce such evidence as it may consider necessary or desirable in any proceeding in addition to the evidence presented by the parties. Any information on file with the Commission which the Commission, its Staff, or other party desires to use in evidence or rely upon must be specifically referred to during the hearing and all parties accorded an opportunity to examine the same and interrogate witnesses with respect thereto. (See also Rule 3.07.(b).)

Rule 3.13. Adjournment and Closing

The presiding officer may adjourn a hearing to any future date or place without notice again being served. Such adjournment will be noted in the record. A hearing shall be deemed concluded when the presiding officer so determines.

Rule 3.14. Briefs and Oral Argument

If counsel for any party requests permission to file a brief or make oral argument, the presiding officer upon finding that the filing of briefs and/or oral arguments is appropriate shall fix the time for hearing such argument or the filing of briefs. Failure to request same at the close of the testimony shall waive a party's right to subsequently file a brief or present oral argument.

Rule 3.15. Decisions and Orders

Decisions and orders shall be served by the Secretary's office by personal delivery or by mailing copies thereof to the parties of record or their attorneys or representatives. (See also Rules 1.04.(b) and 2.08.(a).)

Rule 3.16. Rehearing

- (a) Any party to a proceeding before the Commission who has been aggrieved by the Commission's order may apply for rehearing within thirty (30) days after service of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Unless the Commission acts upon the application within thirty (30) days after it is filed, such application shall be deemed to have been denied.
- (b) If any party applies for a rehearing based in whole or in part on additional evidence which was not a part of the original record, said party shall attach said evidence, if documentary, as an exhibit to the application. If the additional evidence is proposed as oral testimony, the name and identification of the witness and the subject matter of his proposed testimony shall be set forth in detail in the application.

Rule 3.17.

Representation of Parties

- (a) Any person, except a corporation, may enter an appearance on his or her own behalf in any formal proceeding before the Commission. A formal proceeding is one in which the Secretary of the Commission has assigned a docket number.
- (b) No one but a licensed attorney may represent any person or corporation in any formal proceeding before the Commission. The attorney need not be licensed in Arkansas, but must be licensed by the highest state court of another state. Provided, that any person, not including a corporation, may represent himself, pro se.
- (c) Representation includes, but is not limited to, the following activities, when performed on behalf of another in a formal Commission proceeding:
 - (1) Instruction or advice regarding the law applicable to the proceeding;
 - (2) Preparation of documents requiring a familiarity with legal principles not ordinarily found among non-lawyers;
 - (3) Preparation of applications, petitions, pleadings, motions, or other procedural documents;
 - (4) Advocacy in contested or uncontested proceedings, whether or not a hearing is held. Advocacy includes opening and closing statements, oral argument, and submission of briefs; and
 - (5) Examination or cross-examination of witnesses; objection to the introduction of evidence, testimony, or exhibits offered by another party; resistance to objections made by other parties; exceptions taken to Commission rulings; and petitions for rehearing.

SECTION 4. FORMAL APPLICATIONS

Rule 4.01. Subject Matter

- (a) A formal application is a pleading wherein the applicant seeks to invoke the authority of the Commission to perform an act or to approve an act to be performed by the applicant.
- (b) Formal applications shall be used to apply for Certificates of Convenience and Necessity, Certificates of Environmental Compatibility and Public Need, authority to issue stocks, bonds or other evidences of indebtedness, authority to sell, lease, assign, or otherwise dispose of property, a general rate increase and other formal proceedings requiring Commission authorization. This shall not apply to nominal assets.

Rule 4.02. Content

- (a) All formal applications must be in writing. The application must set forth the full name and address of the applicant and shall state fully the facts upon which the application is based, along with a request for the order, authorization, permission, or certificate desired, and a reference to the particular provision of law requiring or providing for the same.
- (b) If the applicant is a corporation, a certified copy of its Articles of Incorporation, with any amendments thereto, shall be attached unless already on file with the Commission, in which case they may be made an exhibit by reference.
- (c) In the event the statute under which the application is made requires any additional information, such as a permit, license, or authority, a copy thereof must be attached.

Rule 4.03. Notice

Notice shall be given pursuant to Section 3 of these Rules.

Rule 4.04. Procedure

Formal applications shall be adjudicated by administrative order based on the facts presented in the application, unless the applicant requests a hearing or unless a hearing is otherwise required by the Commission, the law, or these Rules.

SECTION 5. STOCK, BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS

Rule 5.01. Subject Matter

Public utilities, incorporated under the laws of this State, must file a formal application for authority to issue stock, bonds, notes, or other evidences of indebtedness payable at periods of more than thirty-six (36) months after the date thereof, and public utilities, incorporated under the laws of any state must file a formal application for authority to create liens upon properties in this State, under the provision of Sections 58 and 59 of Act 324 of 1935, as amended. (Ark. Code Ann. §§ 23-3-103 and 23-3-104)

EXCEPTION: This section does not apply to telecommunications providers, unless such provider is a non-electing ILEC.

Rule 5.02. Content

- (a) When application is made by any utility for an order authorizing the issue of stock or stock certificates, or bonds, notes or other evidences of indebtedness payable at periods of more than thirty-six (36) months after the date thereof, under the provisions of Section 59 of Act 324, as amended, the application shall include, in addition to any other requirements of these Rules:
 - 1. A general description of the utility's property, the field of its operations, and the type and character of service it supplies. The Commission may also require that the applicant submit an inventory or appraisal in detail of its property and equipment, together with a statement of the original cost of the same and the cost to the applicant. If it is impossible to state the original cost, the facts creating the need for an appraisal shall be stated.
 - 2. The amount and kind of stock, if any, which the utility desires to issue, and, if preferred, the nature and extent of the preference; the amount of bonds, notes, or other evidences of indebtedness, if any, which the public utility desires to issue, with terms, rate of interest, and whether and how to be secured.

3. A reference to any mortgage upon property of applicant, giving the name of the mortgagee or trustee and the amount of indebtedness actually secured.
 4. The use to which the capital to be secured by the issue of such stock or stock certificates, bonds, notes, or other evidences of indebtedness is to be put.
 5. Such other facts and information which may be material or pertinent for consideration by the Commission or which may be required by order of the Commission.
- (b) When application is made by any public utility for an order authorizing the issue of stock, bonds, notes or other evidences of indebtedness payable at periods of more than thirty-six (36) months after the date thereof, under the provisions of Section 59 of Act 324 of 1935, as amended, which concurrently therewith seeks an appropriate order from the Securities and Exchange Commission, or other federal agency, said utility may file its petition, reciting the foregoing and submitting therewith copies of such documents and exhibits on file, or to be filed, with the Securities and Exchange Commission, or other federal agency, in lieu of the information required by subpart (a) (1) of this Rule. Said documents and exhibits may be filed either at the time when the petition is filed with the Arkansas Public Service Commission or simultaneously with their filing with the Securities and Exchange Commission or other federal agency. However, the Commission, upon its own motion, may require the applicant utility to also submit any or all of the information required by subpart (a) (1) of this Rule in addition to such other information as the Commission deems pertinent.

Rule 5.03. Exhibits

With the application the following must be filed:

- (a) Copy of Deeds of Trust or mortgages, if any, unless the same have already been filed with the Commission, in which case they may be made an exhibit by reference.
- (b) Financial statements per books and pro forma statements giving effect to proposed financing.

Rule 5.04. Municipalities and Improvement Districts

(See Ark. Code Ann. §§ 14-200-109 and 14-216-101.)

- (a) Any municipality, any board, commission, or other authority duly established by any municipality, or any improvement district owning and operating any system for the generation, transmission and/or distribution of electric power or energy may issue revenue bonds and pledge the revenues derived from such system, whether such revenues are derived from within or beyond the corporate limits of such municipality or district, as may be permitted or authorized by applicable law without obtaining the approval of the Arkansas Public Service Commission.
- (b) Nothing in this Rule should be construed to authorize any such municipality, board, commission, authority or district to issue or sell bonds or use the proceeds thereof to purchase, condemn or otherwise acquire a utility plant or distribution system or portion thereof owned or operated by a public utility without the consent of such public utility.

SECTION 6. SALE, ACQUISITION OR LEASE OF UTILITY PROPERTIES

Rule 6.01. Subject Matter

Public utilities must file a formal application for authority to acquire, sell, lease, assign, or otherwise dispose of any public utility plant or property constituting an operating unit or system.

EXCEPTION: This section does not apply to telecommunications providers, unless such provider is a non-electing ILEC.

Rule 6.02. Content

When application is made by a public utility for an order authorizing the acquisition, sale, lease, assignment, or other disposition (not including mortgaging or otherwise encumbering) of the whole or any part of a public utility plant or property constituting an operating unit or system necessary or useful in the performance of its duty to the public or any franchise or permit, or any right thereunder, the application must be made by all public utilities who are parties to the proposed transaction, and in addition to other requirements of these Rules, must show:

- (a) The reasons on the part of each applicant for entering into the proposed acquisition, sale, lease, assignment, or other disposition of such property, franchise, or permit, and all the facts warranting same and showing that it is consistent with the public interest.
- (b) An accurate detailed description of the property to be sold or leased, together with the original cost to applicant and applicant's statement as to the present value thereof.

Rule 6.03. Information Required

With the application the following information must be filed:

- (a) A financial statement, if required by the Commission.
- (b) A statement detailing the form of the instrument used in the transaction.

SECTION 7. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Rule 7.01. Subject Matter

- (a) Where a Certificate of Public Convenience and Necessity is required by Section 41 or 43 of Act 324 of 1935, as amended, (Ark. Code Ann. §23-3-201 et seq.), for the construction or operation of any new equipment or facilities for supplying a public service, such certificate shall be obtained from this Commission by formal application except as provided below.
- (b) Within sixty (60) days after completion of the physical construction authorized by any Certificate of Public Convenience and Necessity, or by a later time which may be fixed by the Commission in said order, the utility shall file a report with the Secretary of the Commission, showing the date the requested construction was completed. The report shall include a map showing changes, if any, from the application for the certificate and a detailed statement of the costs of the construction. The report shall reference the docket number assigned to the certificate and the number of copies stipulated in the granting order.
- (c) Action on Non-Construction

In the event any construction authorized by a Certificate of Public Convenience and Necessity is not started within four (4) months from the date of the Certificate of Public Convenience and Necessity, the utility shall file a statement with the Secretary of the Commission stating why the construction was not started and when it will be started.

The requirements stated in (a) and (b) above do not apply to a tariff filed in accordance with Rule 7.05.(d).

Rule 7.02. Allocated Area

- (a) Where the Commission has by its order authorized a public utility to serve within a municipality, territorial district, or other geographic area (hereinafter called an allocated area), such order shall be considered a Certificate of Public Convenience and Necessity to construct and operate within such allocated area all distribution facilities and equipment necessary in the

ordinary course to serve all consumers, both present and future, located within such allocated area.

- (b) Where a utility is lawfully supplying service within any municipality, construction or operation of any equipment or facilities or extensions thereof shall not require a Certificate of Public Convenience and Necessity or an application therefor.

Rule 7.03. Consent of Public Authority

When application is made by a public utility for a Certificate of Public Convenience and Necessity it shall include, when required, a conformed copy of the consent, franchise, permit, ordinance, vote or other authority of a municipality or other public authority if a public utility desires a Certificate of Public Convenience and Necessity in connection with the exercise of a right or privilege under a consent, franchise, permit, or ordinance granted by a municipality or other public authority. If a public utility desires a Certificate of Public Convenience and Necessity to exercise a right or privilege under a consent, franchise, permit, or ordinance which applicant contemplates securing, but which has not yet been granted to it, such public utility may file an application for an order preliminary to the issue of the certificate and shall file with the application a copy of the proposed permit, franchise, consent or ordinance. The Commission may, at its discretion, make an order declaring that it will thereafter, upon application, issue the certificate upon such terms and conditions as it may prescribe after the public utility has obtained the contemplated franchise or permit. After obtaining the franchise or permit the utility shall make application for the final certificate and attached to such application shall be a copy of the franchise or permit and the Commission will thereupon issue the certificate.

Rule 7.04. Certificates of Public Convenience and Necessity--
Electric Utilities

(a) New Construction

When application is made by any electric utility for a Certificate of Public Convenience and Necessity for new construction pursuant to Ark. Code Ann. § 23-3-201 et seq. it shall include:

- (1) Facts showing that the proposed new construction is or will be required by public convenience and necessity.
- (2) A description of the proposed location or route of the new construction and a description of the manner in which the same will be constructed.
- (3) A map or maps to suitable scale shall be furnished showing the location or route of the proposed new construction, locations of nearby airports, and reference to all allocation boundaries.
- (4) Applicant shall furnish all such data, including an estimate of cost, as is necessary to a complete understanding of the situation.
- (5) The manner in which it is proposed to finance the new construction or extension.

(b) Customer Releases

- (1) An electric utility ("releasing utility") may voluntarily waive its right and obligation to serve a customer at a location within its allocated territory if another utility ("successor utility") agrees to serve that customer, at that location, indefinitely. The successor utility may continue to serve the location and all future customers at that location, even after service to the original customer has been discontinued for any reason. This agreement between the releasing and successor utilities is a "customer release".
- (2) To request a customer release, either the releasing utility or the successor utility shall file a letter with the Secretary reciting the reasons for the customer release. Attached to the letter shall be written evidence from the other utility indicating its willingness to agree to the customer release. The filing shall include a map and legal description which will identify the approximate location of the customer. The filing shall contain a cover letter stating that the filing is an application for customer release under Rule 7.04. of the Rules of Practice and Procedure. An original and two (2) copies shall be filed. The Secretary shall assign an "A" docket number to the filing and shall transmit one (1) copy to the Legal

Section and one (1) copy to the Quality of Service Division.

- (3) A customer release shall not be final until it has been approved by a written order. Provided, however, that an emergency ruling may be granted verbally by a single Commissioner or a designated hearing examiner, provided further that a written order shall follow within thirty (30) days from the date of said verbal approval.
 - (4) The order granting the customer release shall not constitute a change in allocated territory.
- (c) Exchanges of Allocated Territory and Releases of Allocated Territory
- (1) Two or more electric utility companies may seek Commission authorization to exchange, among one another, service territory previously allocated to them. In the alternative, one company may seek to release previously allocated territory to another company.
 - (2) An application under this subsection shall state the reasons for the application. The application may be in the form of a letter. Attached to the application shall be written evidence indicating the willingness of the other company to agree to the exchange of allocated territory. The filing shall contain a cover letter stating that the filing is an application for exchange or release of allocated territory under Rule 7.04.(c) of the Rules of Practice and Procedure. Additionally, a map or maps to suitable scale and a legal description showing the geographical area being exchanged shall be included with the application.
 - (3) Applications made under this subsection shall contain an original and two (2) copies. The Secretary shall assign an "A" docket number to the application and shall send one (1) copy to the Legal Section and one (1) copy to the Quality of Service Division.

Rule 7.05. Certificates of Public Convenience and Necessity --
Local Exchange Carriers

(a) Request for Unallocated Area(s)

(1) A LEC may request the Commission to allocate a geographic area(s) not previously allocated to that utility. The application may be in the form of a letter stating that the filing is in accordance with Rule 7.05.(a) of the Rules of Practice and Procedure. The application shall contain an original and two (2) copies and state that it is to provide service to territory not previously allocated to that company.

(2) The application shall include the following:

(A) A map or maps to suitable scale and a legal description showing the geographic area proposed to be served and also depicting the change in territory and exchange boundary(ies) affected by the change.

(B) A letter or letters from other telephone companies whose allocated service territories are immediately adjacent to the proposed new service area, indicating that the adjacent companies do or do not desire to serve that area. In the event that more than one carrier files an application to serve the same unallocated territory, the Commission may award part or all of the territory to one or more companies as may be in the public interest pursuant to notice and hearing. If an unallocated territory is totally surrounded by allocated territory of the applicant or does not border the territory of another company, the application shall state that this is the case and that the letter required by this section is not applicable.

(3) The Secretary shall assign an "A" docket number to the application.

(b) When application is made to provide long distance telephone service to or between geographic areas, such application shall include the information required in subparagraph (a) of this Rule to the degree pertinent and shall also include a schematic map of the proposed long

distance route and its point(s) of connection with other telephone companies. This subparagraph (b) shall apply to non-electing ILECs only.

(c) Exchanges of Allocated Territory

- (1) Two or more LECs may seek Commission authorization to exchange with another LEC service territory previously allocated to them.
- (2) Two or more LECs may request the Commission to exchange, among one another, service territory previously allocated to them. The application may be in the form of a letter stating that the filing is in accordance with Rule 7.05.(c) of the Rules of Practice and Procedure. The application shall contain an original and two (2) copies and state that the filing is an application for exchange or release of allocated territory.
- (3) The application shall include the following:
 - (A) A map or maps to suitable scale and a legal description showing the geographic area proposed to be served and also depicting the change in territory and exchange boundary(ies) affected by the change.
 - (B) Written evidence indicating the willingness of the other LEC(s) agreeing to exchange of allocated territory.
- (4) The Secretary shall assign an "A" docket number to the application.

(d) Changes to Base Rate Areas

- (1) A LEC may make application to alter an existing base rate area. An application under this subsection shall state the reasons for the application. The application may be in the form of a letter to the Commission. The letter shall state that the filing is an application to change one or more base rate areas, pursuant to Rule 7.05.(d) of the Rules of Practice and Procedure.
- (2) Applications made under this subsection shall contain an original and five (5) copies of the application and five (5) original maps to suitable

scale indicating the proposed change(s) and also depicting the change in base rate boundary(ies) affected by the change.

- (3) The Secretary shall assign a "TF" docket number to the application.

(e) Changes to Local Exchange Boundaries

- (1) A LEC may make application to alter existing local exchange areas by changing the boundaries between two or more of the LEC's exchanges.
- (2) An application under Subsection (e) shall be in the form of a letter which states the purpose of the modifications and explains in detail any changes in rates or in the calling scopes of existing customers. The letter shall state that the filing is an application to change two (or more) exchange areas, pursuant to Rule 7.05.(e) of the Rules of Practice and Procedure.
- (3) The application shall include: an original and four (4) copies of the letter and five (5) original copies of the proposed final version of a tariff map and legal description for each exchange; five (5) copies of each currently approved tariff map with proposed changes marked in red; and five (5) copies of each currently approved legal description with changes highlighted.
- (4) The Secretary shall assign an "A" docket number to the application.

(f) Certificates of Public Convenience and Necessity for Competing Local Exchange Carriers

In filing a request for a Certificate of Public Convenience and Necessity to provide telecommunications services including basic local exchange service and/or switched access service to an ILEC's local exchange area, a CLEC shall provide the following information:

- (1) Its name and address and the full name of its owner if a sole proprietorship, of each partner if a partnership, or a full list of the officers and directors if a corporation.

- (2) A copy of the articles of a partnership or a certified copy of the Articles of Incorporation. A copy of the Certificate of Authority to Foreign Corporation unless incorporated under Arkansas law.
- (3) The designated geographic area proposed to be served, including a map or maps to suitable scale and a legal description.
- (4) A description of the services that the applicant intends to provide in addition to basic local exchange and switched access services.
- (5) Information demonstrating the applicant's financial, managerial and technical capacity to provide the services.
- (6) An initial tariff or price list for the services to be offered.
- (7) Such other information as the Commission may require.

Rule 7.06. Certificate of Public Convenience and Necessity --
Telecommunications Providers Excluding Local
Exchange Carriers

In filing a request for a Certificate of Public Convenience and Necessity, a telecommunications provider, as defined in Section 1.01. other than a LEC, shall provide the following information:

- (a) The name and address of the telecommunications provider and the full name of its owner if a sole proprietorship, of each partner if a partnership, or a full list of the officers and directors if a corporation.
- (b) A copy of the articles of a partnership or a certified copy of the Articles of Incorporation. A copy of the Certificate of Authority to Foreign Corporation unless incorporated under Arkansas law.
- (c) A description of the telecommunications provider and of the telecommunications service(s) it proposes to provide.
- (d) A description of the telecommunications provider's technical means to provide the proposed service.

- (e) Information setting forth the financial condition of the telecommunications provider.
- (f) An initial tariff or price list proposed for the services to be offered.
- (g) A detailed description of the transmission facilities, be they owned or leased, switching equipment, and the points at which the transmission facilities or switching equipment connects to the local exchange network through switched, special or private access service, together with a description of the type of access service used to connect to the local exchange network. This same information shall be provided with regard to direct access to any customer.
- (h) Such other information as the Commission may require.

Rule 7.07. Certificate of Public Convenience and Necessity --
Gas Utilities

When application is made by a gas utility for a Certificate of Public Convenience and Necessity, it shall include:

- (a) A statement of the facts relied upon by applicant to show the proposed operation or construction is or will be required by public convenience and necessity; the proposed dates for the beginning and completion of construction; and the commencement of operations.
- (b) A statement as to whether any other application to supplement or effectuate such application must be or is to be filed by applicant, any of applicant's customers, or any other person, with any other federal, state, or other regulatory body; and if so, the nature and status of each such application.
- (c) A table of contents which shall list all exhibits and documents filed identifying them by their appropriate titles and alphabetical letter designations.
- (d) A general description of the facilities proposed to be constructed, acquired or operated, giving insofar as such information may be pertinent the size, capacity, length and location of facilities; the extent of distribution systems, the location, rating, and capacity of all compressor or central stations; the location and description of other important property units; estimates

of maximum and minimum day demands; and other pertinent facts showing that such facilities will be capable of performing adequately the service which applicant proposes to render. In connection herewith the applicant shall furnish:

- (1) A map delineating the size and location of applicant's proposed lines or distribution system, the communities to be served, and the points of connection with existing facilities.
- (2) A statement setting forth all contracts for the construction, purchase, or lease of the proposed facilities and giving the affiliation, if any, between applicant and any other party to said contracts.
- (3) A statement that the specifications conform to the Arkansas Gas Pipeline Code, as promulgated, as of the date of the filing of the application.

This requirement applies equally to proposed major utility facilities, under Ark. Code Ann. § 23-18-501 et seq. (See Rule 7.08.)

- (e) A statement of the source of supply for the market which is proposed to be served.
- (f) A statement setting forth all facts bearing upon economic feasibility including:
 - (1) The estimated total overall capital cost of the proposed facility or acquisition, including all expenditures involved in the construction or acquisition of the proposed facilities, proposed cost of financing, working capital, and other incidental costs, amount of engineering and contracting fees to be paid and a brief statement of applicant's proposed plan of financing.
 - (2) A statement of the extent to which such plan is supported by firm or contingent commitment from all financial sources, including commitments from banks, trust companies, insurance companies, investment bankers, suppliers, and other sources.
 - (3) A statement showing:

- (A) estimates of total revenues expected from the proposed new facilities to be constructed, acquired, or operated;
 - (B) total fixed charges; and
 - (C) total operating expenses.
- (4) A general statement covering the rates proposed to be charged by applicant for each kind of service proposed to be rendered, and the expected sales, revenues, and average revenue per unit of measurement to be derived therefrom.
- (g) A general description of the proposed method of supervising the operations of the proposed project, including reference to any relevant service or management contracts, existing or contemplated.

Rule 7.08. Certificates of Environmental Compatibility and
Public Need -- Major Utility Facilities

- (a) Any application for a "Major Utility Facility" as defined in Act 164 of 1973, as amended, shall, in addition to the exhibits, documents, or other information required by such act or any amendments thereto, contain a statement of the facts and circumstances upon which applicant relies to establish that present or future public convenience and necessity require the new construction, acquisition, or operation of such facilities, together with financial data as of the latest practical date. The application shall include a statement of life estimates, value of salvage, cost of removal, and re-use potential of the proposed facility.

Applications filed by gas utilities shall include the technical information required by Rule 7.07.(d) (3).

- (b) The newspaper notice required by Ark. Code Ann. § 23-18-513 shall, in addition to the statutory requirements:
- (1) Be published at least twice in the newspapers chosen by the applicant.
 - (2) Contain a map at least five (5) inches on a side depicting the preferred and alternate locations of the proposed major utility facility.

- (3) Contain statements stating in substance the following:
 - (A) That the Commission will hear evidence of the general economic and environmental impact of the proposed facility, as opposed to individual objections to the presence of the facility;
 - (B) That compensation for damages is not awarded by the Commission. Compensation is awarded by Circuit Court in an eminent domain proceeding if the applicant and the landowner cannot settle privately.
 - (C) That the purpose of the hearing is to choose the location with the least generally adverse economic and environmental consequences, and that in the course of selecting a location, the Commission may modify one of the proposed locations if it is in the public interest.
- (c) The copies of applications served pursuant to Ark. Code Ann. §23-18-513(a) and (b) must be accompanied by the same map and statements required by Rule 7.08.(b) (2) and (3).

SECTION 8. APPLICATION FOR AUTHORITY TO ACQUIRE CAPITAL STOCK OF, OR TO MERGE OR CONSOLIDATE WITH, ANOTHER PUBLIC UTILITY

Rule 8.01. Subject Matter

A public utility must file a formal application for authority to merge or consolidate with another public utility or purchase any part of the capital stock of any other public utility.

EXCEPTION: This section does not apply to telecommunications providers, unless such provider is a non-electing ILEC.

Rule 8.02. Content

When application is made by any public utility for authority to merge or consolidate with any other public utility, or purchase, acquire, take, or hold any part of the capital stock of any other public utility, under the provisions of Section 57 of Act 324 of 1934, as amended, (Ark. Code Ann. § 23-3-102) the application must be made by the public utility proposing to purchase, acquire, take, or hold the stock, and must include the following information:

- (a) The financial statements of the applicant and of the utility whose stock is sought to be purchased, acquired, taken, or held.
- (b) The reasons why the applicant desires to complete the proposed transaction.
- (c) With respect to the stock of the public utility sought to be purchased, acquired, taken, or held, the application must include the following information:
 - (1) The price proposed to be paid for the stock.
 - (2) The proposed terms of payment.
 - (3) The market value, either actual or estimated, for the stock.
 - (4) The highest and lowest price, either actual or estimated, at which the stock was bought or sold during the period of at least one (1) year prior to the application.

- (5) The amounts and frequency of dividends paid on the stock for the five (5) year period prior to the application.
- (6) The amount of stock owned or held by the applicant or any affiliate thereof in the public utility or any affiliate thereof prior to the proposed transaction.